

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

STEPHEN T. SHIPP,)	
)	
Petitioner,)	
)	
v.)	No. 4:10CV1121 AGF
)	
JENNIFER SACHSE ¹ ,)	
)	
Respondent.)	

MEMORANDUM AND ORDER

This matter is before the Court upon review of petitioner’s response to the order to show cause. Having carefully reviewed petitioner’s response, the Court concludes that his arguments are without merit and that the instant action is time-barred under 28 U.S.C. § 2244.

Background

Petitioner brought the instant application for writ of habeas corpus on June 21, 2010 seeking relief from his 2002 convictions of assault in the second degree, resisting arrest and unlawful use of a weapon. For the purposes of this action, the Court presumed that petitioner filed both timely direct appeals and a timely motion for post conviction relief in the state courts. However, the record shows that the Missouri Court of Appeals issued its mandate, affirming the trial court’s denial of petitioner’s motion for post conviction relief brought pursuant to Mo.Sup.Ct.R. 29.15, on September 7, 2007. Thus,

¹Given petitioner’s recent transfer to the Missouri Eastern Correctional Center “MECC,” the proper respondent in this case is now Jennifer Sachse, Warden of MECC.

the instant application for writ of habeas corpus was filed almost two years after the statute of limitations expired. See 28 U.S.C. § 2244(d) (noting that a 1-year time period of limitation shall apply to an application for a writ of habeas corpus, running from the conclusion of direct review, but tolled during post-conviction or other collateral review).

In its October 25, 2010 Memorandum and Order, the Court calculated the limitations period, noted that the action appeared to be time-barred and ordered petitioner to show cause why the action should not be dismissed.

Discussion

On November 23, 2010 petitioner responded to the Court's Memorandum and Order. In his two page response, petitioner appears to be asserting that because he has petitioned two Governors of the State of Missouri, as well as the current and former President of United States, about his case, his statute of limitations period should be tolled. Petitioner even goes so far as to say that former President Bush and President Obama "declared" that he had been "illegally incarcerated" and noted that the State of Missouri should pay him one thousand dollars per day for the time he had been illegally incarcerated. Petitioner closes by saying that the Court should contact President Obama on his I-phone about the matter "if necessary." The aforementioned arguments have no bearing on the issue before the Court, and cannot toll the statute of limitations under § 2244. As such, in accordance with the Court's October 25, 2010 Memorandum and Order, petitioner's application for writ of habeas corpus will be dismissed as time-barred.

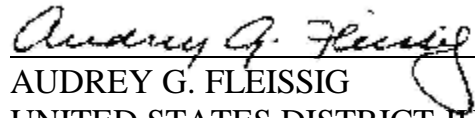
Accordingly,

IT IS HEREBY ORDERED that the Clerk of Court shall substitute Jennifer Sachse, Warden of the Missouri Eastern Correctional Center, as the proper respondent in this action and update petitioner's address on the Court's docket.

IT IS FURTHER ORDERED that petitioner's application for writ of habeas corpus pursuant to 28 U.S.C. § 2254 is **DISMISSED** as time-barred.

A separate Order of Dismissal shall accompany this Memorandum and Order.

Dated this 10th day of December, 2010.



AUDREY G. FLEISSIG
UNITED STATES DISTRICT JUDGE